

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
www.flmb.uscourts.gov

IN RE:
Michelle Lee Poth

Case No. 6:19-bk-00602-CCJ
Chapter 7

Debtor. _____ /

MOTION FOR RELIEF FROM THE AUTOMATIC STAY
(RE: 1216 SUWANEE ROAD, DAYTONA BEACH, FL 32114)

NOTICE OF OPPORTUNITY TO
OBJECT AND REQUEST FOR HEARING

Pursuant to Local Rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party in interest files a response within twenty-one (21) days from the date set forth on the attached proof of service, plus an additional three days for service if any party was served by U.S. Mail.

If you object to the relief requested in this paper, you must file a response with the Clerk of the Court at George C. Young Federal Courthouse, 400 W. Washington Street, Suite 5100, Orlando, FL 32801, and serve a copy on the movant's attorney, Elizabeth Eckhart, c/o SHAPIRO, FISHMAN & GACHE, 4630 WOODLAND CORPORATE BLVD., SUITE 100, TAMPA, FL 33614, and any other appropriate person's within the time allowed. If you file and serve a response within the time permitted, the Court will either schedule and notify you of a hearing, or consider the response and grant or deny the relief requested without a hearing.

If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

COMES NOW, Wilmington Trust, National Association, as Successor Trustee to Citibank, N.A., as Trustee for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2006-HE5 currently service by Nationstar Mortgage LLC d/b/a Mr. Cooper (hereinafter referred to as "Nationstar"), by and through its undersigned attorneys, moves the Court for an Order Granting Relief from the Automatic Stay pursuant to 11 USC 362(d)(1) and 11 USC 362(d)(2)(A) and in support thereof would show:

1. That Debtor filed this case on January 29, 2019.
2. This is a motion pursuant to Bankruptcy Rule 4001(a) for relief from the automatic stay provisions of Section 362(a) of the Bankruptcy Code.
3. Nationstar is a secured creditor by virtue of a promissory note and mortgage on real property. Said real property has the following legal description:

THE SOUTHERLY 25.6 FEET OF LOT 5 AND THE NORTHERLY 51.2 FEET OF LOT 6, BLOCK 25, UNIT 1, FAIRWAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 25 PAGES 40 AND 41, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

The common address is 1216 Suwanee Road, Daytona Beach, FL 32114. The note and mortgage are attached to this motion as **Exhibit "A."**

4. That payments due pursuant to the aforementioned note and mortgage have been in default and remain in default since June 1, 2012.
5. The Debtor is indebted to the secured creditor in the approximate amount \$280,901.74.
6. The Volusia County Property Appraiser shows a just market value of the property at \$143,892.00. A copy property valuation is attached to this motion as **Exhibit "B."**
7. The Debtor failed to adequately protect the interest of the secured creditor.
8. There is no equity in the property.
9. Nationstar is prohibited from instituting and /or completing a foreclosure action in the State Court because of the pendency of this Bankruptcy action, and that in the absence of the court's Order allowing the secured creditor, Nationstar, to proceed with the Foreclosure action, the secured creditor's security will be significantly jeopardized.
10. Nationstar also seeks relief to consider the Debtor for any short sale or deed in lieu of foreclosure as alternatives to proceeding with a judicial foreclosure action.

11. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, and itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.

WHEREFORE, Wilmington Trust, National Association, as Successor Trustee to Citibank, N.A., as Trustee for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2006-HE5 currently service by Nationstar Mortgage LLC d/b/a Mr. Cooper, moves this Honorable Court for an Order Granting Relief from the Automatic Stay.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay and Notice of Opportunity to Object and for Hearing has been sent to the following on this 15th day of February, 2019.

Michelle Lee Poth, 1216 Suwanee Road, Daytona Beach, FL 32114

Damien Aranguren, Justin McMurray, P.A., 118 West Fort King Street, Ocala, FL 34471

Lori Patton, P.O Box 520547, Longwood, FL 32752

United States Trustee, 400 West Washington Street, Suite 1100, Orlando, FL 32801

/s/Elizabeth Eckhart
Elizabeth Eckhart
FL Bar # 0048958
Shapiro, Fishman & Gaché, LLP
Attorney for Secured Creditor
4630 Woodland Corporate Blvd.
Suite 100
Tampa, FL 33614
Telephone: 813-319-5278
Fax: (813) 880-8800
E-mail: eeckhart@logs.com